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REPORTS, CONCLUSIONS AND RECOMMENDATIONS OF SUBSIDIARY BODIES: HUMAN RIGHTS QUESTIONS

Extract from the report of the Committee on Economic,
Social and Cultural Rights on its sixteenth session
(Geneva, 28 April-16 May 1997)**

Chapter I

DRAFT DECISION RECOMMENDED FOR ADOPTION BY THE ECONOMIC
AND SOCIAL COUNCIL OR BROUGHT TO ITS ATTENTION

A. Draft decisions

DRAFT DECISION I

Extraordinary additional session of the Committee on Economic, Social and Cultural Rights

The Economic and Social Council, concerned that there is currently a backlog of reports awaiting consideration by the Committee on Economic, Social and Cultural Rights that will take up to three years to clear on the basis of existing arrangements, welcoming the adoption by the Committee at its sixteenth session, in May 1997, of a range of additional procedural reforms designed to improve and expedite the reporting arrangements, approves, on an exceptional basis, the holding of one additional three-week session of the Committee in 1998, as well as a pre-sessional working group meeting of one week's duration.

* E/1997/109.

** The complete report will be issued as Official Records of the Economic and Social Council, Supplement No. 2A (E/1997/22/Add.1).

DRAFT DECISION II

Holding of the nineteenth session of the Committee
on Economic, Social and Cultural Rights in New York
(16 November-4 December 1998)*

The Economic and Social Council, noting that the effectiveness and profile of the work of the Committee on Economic, Social and Cultural Rights could be further enhanced by holding occasional sessions in New York, approves the holding of the Committee's nineteenth session in New York late in 1998.

DRAFT DECISION III

Payment of honoraria to members of the Committee on
Economic, Social and Cultural Rights

The Economic and Social Council, recalling its decisions 1993/297 of 28 July 1993 and 1995/302 A of 25 July 1995 to approve the payment of an honorarium to members of the Committee on Economic, Social and Cultural Rights, noting that this request was forwarded to the General Assembly in 1993 and 1995 and that no action has yet been taken on the matter, noting further that honoraria are already being paid to members of the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, calls upon the General Assembly to take prompt action to remedy the situation by approving the payment of an honorarium, as from 1997, for the members of the Committee on Economic, Social and Cultural Rights.

B. Decision brought to the attention of the Economic and
Social Council

Extraordinary additional session of the pre-sessional working
group of the Committee on Economic, Social and Cultural Rights
(20-24 April 1998)

The Committee on Economic, Social and Cultural Rights, stressing the importance attached to the adoption of general comments, noting that it has been able to adopt only seven general comments since its establishment in 1987,

* In connection with draft decision II the attention of the members of the Economic and Social Council is drawn to paragraphs 9 to 11 of document E/1997/L.44 (report of the Committee on Economic, Social and Cultural Rights on its sixteenth session: administrative and programme budget implications of the draft decisions recommended for adoption by the Council) which indicate that it will not be possible to accommodate the nineteenth session of the Committee on Economic, Social and Cultural Rights in New York from 16 November to 4 December 1998 and that, based on the projected calendar of conferences for 1998, the nineteenth session of the Committee could be accommodated in New York during the month of August 1998.

recalling its decision of May 1997 to initiate the drafting of a range of general comments for consideration and adoption by the Committee over the next two years or so, having concluded that the most efficient manner of proceeding is to entrust a working group with the responsibility for undertaking a careful initial review and revision of drafts to be prepared by individual members:

(a) Decides to schedule, on an exceptional basis and from within existing resources, a one-week ad hoc working group meeting of five members specifically designated for that purpose, immediately before its eighteenth session, in April 1998;

(b) Requests the Economic and Social Council to consider approving that decision.

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Chapter II

REVIEW OF THE WORK OF THE SIXTEENTH SESSION: REPORT OF THE INFORMAL WORKING GROUP TO DISCUSS PROCEDURAL REFORMS

1. At its sixteenth session the Committee established an informal working group which met on 13 and 14 May 1997 to discuss the desirability of introducing procedural reforms in the light of the Committee's plenary discussions on 12 May, the day of general discussion. On the basis of proposals submitted to the Committee by the working group, the analysis set out below was adopted by the Committee.

A. Two major challenges

1. Backlog of reports

2. The backlog of reports to be considered is unacceptable for several reasons:

(a) On the basis of the existing backlog the possibility of reviewing reports, insofar as they are considered in chronological order, is delayed by two years or more;

(b) As more reports are submitted the backlog will become much worse;

(c) This situation causes significant inconvenience to States parties;

(d) By the time that the pending reports are finally considered they may require considerable updating;

(e) Specialized agencies, non-governmental organizations and others with an interest in the report cannot plan properly under such circumstances.

3. Therefore all available options need to be explored. However, the enhancement of the procedures must not come at the expense of the quality of the Committee's examination of reports or of the dialogue with States parties.

2. A better focused dialogue

4. The existing dialogue is often too diffuse and untargeted, making it difficult for those representatives who wish to answer constructively to do so adequately, and making it very easy for those representatives who prefer to keep the dialogue at a level of generality and abstraction.

5. Putting in place procedures to underpin a more clearly focused dialogue has several advantages:

(a) It provides in advance a better indication of the principal issues;

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(b) It demonstrates the Committee's knowledge of the situation and its desire and capacity to consider selected issues in depth;

(c) It facilitates requests to specialized agencies and non-governmental organizations for targeted and up-to-date information on specific issues;

(d) It enhances the prospect that genuine experts will be sent by the reporting State;

(e) It facilitates the preparation of clearer and more precise concluding observations, thus in turn, enabling the State party, non-governmental organizations and the media to know precisely how things stand and providing a much stronger basis for follow-up measures by the Committee.

B. Medium-term initiatives

1. Additional session

6. The Committee will request Economic and Social Council authorization, on an exceptional basis, to hold one additional session during 1998 to deal with outstanding reports.

2. Action plan

7. The Committee calls upon the United Nations High Commissioner for Human Rights, States parties and all other interested parties to support the plan of action proposed by the Committee and seek to make it operational by early 1998.

3. Elimination of comprehensive reports

8. The Committee notes the various advantages of the suggestion that comprehensive periodic reports (but not initial reports) be eliminated in favour of reports dealing with a brief list of issues identified in advance by the Committee. The details of the proposal were explored in the context of the day of general discussion.

9. Without prejudice to any final decision that might be taken, the Committee will continue to consider how such an approach might work in practice and to reflect on how it might manage the transition from the existing arrangements to such a system.

C. Specific measures to be adopted in the short term

10. The pre-sessional working group will endeavour to adopt lists of questions containing fewer and more carefully targeted questions. They should reflect the particular concerns relating to the country in question, as identified by the working group on the basis of detailed analytical reports prepared in advance by the Secretariat.

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11. The lists of questions will be divided into two sections: part one, consisting of priority concerns (on average four to five issues with several questions relating to each issue); and two, consisting of other matters, to be taken up in the dialogue to the extent that time permits. Written answers would, however, be required in relation to all the questions in both parts. The State will be requested to provide appropriate appendices in relation to questions in part one in order to give the Committee an opportunity to go into those matters in greater depth.
12. The Committee will draft a question relating to the domestic application of the International Covenant on Economic, Social and Cultural Rights, dissemination and national level monitoring, to be used as appropriate in relation to the situation in the State concerned.
13. The Committee will emphasize, in all possible ways, the importance of receiving replies in writing sufficiently in advance of the session and of ensuring that those replies are translated. For that purpose a note will go from the Committee to its own secretariat and to the Conference Services division underlining the importance of such translation and requesting that it be foreseen and budgeted for. The Committee should emphasize the waste of time and money involved in the non-availability of the replies.
14. The Committee will make greater use of time-limits in order to structure and impose greater discipline on the dialogue, but the actual limits will vary according to the situation and reflect the Committee's perception of the needs in relation to a given dialogue.
15. The Chairperson will explain the Committee's preferences (a) in a note to be made available in advance to delegations and (b) orally at the beginning of each dialogue. Reference will be made to the need to strike an appropriate balance in providing information on both the formal (legal etc.) situation and the position in practice.
16. The Chairperson and individual members will intervene concisely to indicate whenever the dialogue seems to be going off on a tangent, when responses seem to be taking an unduly long time or when answers lack the necessary focus and precision.
17. In connection with questioning, members should make a greater effort (a) not to raise issues outside the scope of the Covenant, (b) not to repeat questions already posed or answered, (c) not to add unduly to an already long list on a particular issue and (d) not to speak for more than five minutes in any one intervention.
18. A greater effort will be made by members, in conjunction with the Secretariat, to draft precise, targeted and significant concluding observations.
19. The Committee will endeavour to increase its rate of adoption of general comments. The following priority areas have been identified and the specified individual members asked to take the lead in preparing drafts: domestic application of the Covenant (a draft is already available; Messrs. Pillay, Riedel and Texier); the right to health (a preliminary draft has been

undertaken; Mr. Alston); ensuring gender equity in the implementation of economic, social and cultural rights (Ms. Dandan, Mr. Rattray); the right to food (Mr. Alston); the right to education (Messrs. Alston, Riedel and Grissa); and cultural rights (Ms. Dandan and Mr. Sadi). For this purpose, a request will be made to explore the possibility of convening an extra working group prior to the session in May 1998 to undertake an initial review of drafts.

20. The Committee expresses its appreciation to Ms. Jimenez and Ms. Dandan for their work on revision of the reporting guidelines and will return to the issue at its session in May 1998.

21. The composition of working groups should be flexible, according to need rather than strict geographical rotation.

22. The timing of the availability of reports to members should be clarified and assignments to working groups should be made for the next three sessions, so that all will know the country rapporteur for each report to be considered. All members are invited to send information and potential questions to the country rapporteurs in advance of the working group sessions.

23. In cases in which a particular member is able to take responsibility as country rapporteur but is not able to attend the session of the working group, that person will be listed as the associate country rapporteur, will prepare the initial draft of the list of questions and will be responsible for the preparation of the concluding observations. Responsibility in relation to the finalization of the list will be taken by a member of the working group.

Chapter III

UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: PLAN OF ACTION TO STRENGTHEN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

INTRODUCTION

1. This plan of action has been drawn up at the request of the Committee on Economic, Social and Cultural Rights. At its fifteenth session, in December 1996, the Committee recognized the importance of adopting a comprehensive programme to be forwarded to the United Nations High Commissioner for Human Rights for consideration by all the relevant bodies within the human rights domain. The proposed programme takes full account of discussions at successive sessions of the Committee and is designed to ensure that adequate attention is given to the commitment to promote respect for the International Covenant on Economic, Social and Cultural Rights and to the central role to be played in that regard by the Committee on Economic, Social and Cultural Rights.
2. The year 1996 marked the thirtieth anniversary of the adoption of the Covenant, the twentieth anniversary of its entry into force, and the end of the first 10 years of work of the Committee.

I. THE CHALLENGE

3. Economic and social rights are recognized in many of the major international human rights treaties, including in particular the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. But the Covenant, with 135 States parties, remains the foundation on which these instruments have been built.
4. The challenge in giving substance to economic, social and cultural rights remains enormous, not only because so little effort has been made by the international community to date, but also because of the complexity of the issues that must be addressed. That complexity arises not only from the nature of the rights themselves, but also from the dramatically uneven levels of economic development that have been achieved, the impact of "globalization" on national economies and the shrinking role of the State. Those difficulties, however, serve only to emphasize the importance of developing more effective, nuanced and constructive approaches in promoting these rights. A world in which economic, social and cultural rights are neglected will not long be one in which civil and political rights can thrive. The fundamental assumptions on which the international human rights system is based are thus at risk unless a balanced approach can be achieved.
5. The centrepiece of international efforts to promote economic, social and cultural rights has been the Committee on Economic, Social and Cultural Rights.

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It is the only body in the United Nations system devoted entirely to these rights. It has the legal mandate to cooperate both with the States parties to the Covenant and with the various bodies and specialized agencies of the United Nations concerned with economic, social and cultural rights. The Committee's central role has long been acknowledged within the human rights domain and is gaining increasing recognition throughout the rest of the system. Its role was specifically emphasized by the World Summit for Social Development (Copenhagen, March 1995), the United Nations Conference on Human Settlements (Habitat II) (Istanbul, June 1996) ("The important role of the Committee ... in monitoring ... States parties' compliance with the ... Covenant ... should be emphasized."¹) and the World Food Summit (Rome, November 1996) (invites the Committee "to give particular attention to this Plan of Action" and to help "to better define the rights related to food in article 11 of the Covenant and to propose ways to implement and realize these rights"²).

6. If the future work of the Committee in assisting Governments to promote respect for economic, social and cultural rights is to be effective, the Committee must be enabled to build on the foundations which it has laid during its first decade. Experience shows that this will require substantive, analytical, expert and general support (a) to facilitate the Committee's work with States parties in relation to the reporting process; (b) for the preparation of various substantive background papers to enable the Committee to contribute effectively to the various activities which it is increasingly being called upon to perform; (c) to enable the Committee to work constructively with States parties and United Nations agencies and others in following up on its recommendations designed to enhance the realization of economic, social and cultural rights.

7. In keeping with the particular prominence accorded to economic, social and cultural rights in the mandate given him by the General Assembly, the United Nations High Commissioner for Human Rights has indicated that very great importance should be attached to the implementation of a programme of action for the Committee.

II. ASSISTANCE REQUIRED

8. In terms of its procedures for working with States parties, the Committee on Economic, Social and Cultural Rights has been the most innovative of all the treaty-monitoring bodies and has explored various approaches designed to reduce the burden of reporting for States parties. Many of its procedural and other innovations have been adopted by the other treaty bodies and have been warmly welcomed by the Commission on Human Rights, the Economic and Social Council and the General Assembly. Nevertheless, the Committee has been unable to take full advantage of its own efforts because of a lack of expert staff assistance. To a greater extent than other treaty bodies, the Committee on Economic, Social and Cultural Rights is called upon to deal with issues that are particularly complex and receive very little attention from the perspective of particular rights elsewhere within the international system. It has done so to date with the assistance of only one member of the staff of the Centre for Human Rights of the United Nations Secretariat.

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9. It is therefore proposed to strengthen the assistance available to the Committee from within the Centre for Human Rights through the appointment of a two-member support team with specialist expertise in the range of issues dealt with by the Committee. The team will be composed of two persons at the P-4 level for an initial period of three years. Annual periodic reviews will be undertaken, as well as a comprehensive evaluation at the end of the three-year period in order to assess the plan's effectiveness. It is estimated that a budget of US\$ 435,728 (at 1997 figures) would be required for each year of the three-year period (see the annex to the present chapter).

III. SPECIFIC ACTIVITIES TO BE SUPPORTED

A. Support for the reporting process

10. The Committee has a significant backlog of States parties' reports awaiting consideration. It is examining various approaches which would enable it to deal more expeditiously with reports, but it will require staff assistance if it is to do so while maintaining the quality of the reporting process. Support is particularly required in order to prepare the preliminary analysis of States parties' reports for consideration by the Committee (or, in the case of a new procedure replacing the existing process of periodic reports, a list of issues in relation to which a report is required). There is a wealth of information available on economic and social issues generally, but considerable expertise is required to locate the most relevant information and, more importantly, to analyse it within the legal framework of the Covenant. Such assistance would also help the Committee to identify priority areas for action and to develop constructive recommendations. The support staff would not perform the basic servicing tasks for the Committee already carried out by the Centre for Human Rights.

B. Analytic support

11. The Committee is called upon to follow a wide range of matters within the United Nations system as a whole and to be able to take account of current developments as they affect the realization of economic, social and cultural rights. Expert assistance is required to enable the Committee to liaise with the other agencies involved, to identify and analyse emerging trends and to prepare research papers which would provide the basis for the elaboration of policy positions on the key issues with which the Committee must deal. The Committee would also be able to make more effective use of the information contained in reports by special rapporteurs and thematic mechanisms, thus enhancing coordination and avoiding duplication.

C. Follow-up

12. Articles 22 and 23 of the Covenant attach particular importance to the identification of technical cooperation and other activities designed to assist in promoting the realization of economic, social and cultural rights. The Committee has been unable to give sufficient attention to this dimension of its

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work because of a lack of assistance. It would henceforth be able to work more constructively with various United Nations agencies, to identify more carefully tailored suggestions for advisory services and to undertake better follow-up. The Committee would also seek to assist States in both the reporting and follow-up processes through the organization of workshops to assist government officials and training courses for the various social partners at the national level.

Annex

PRELIMINARY COST ESTIMATES (1997 figures)

(United States dollars per annum)

Staff assistance

2 P-4* (142,800 x 2)	285 600
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Implementation and technical cooperation

Workshops to assist government officials in reporting and follow-up; economic, social and cultural rights training courses	<u>100 000</u>
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Subtotal	385 600
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<u>Programme support costs (13 per cent)</u>	<u>50 128</u>
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TOTAL	<u>435 728</u>
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* This professional level has been chosen because of the degree of specialization required of the staff. Additional staff assistance could be provided through the appointment of one or more Associate Experts (Junior Professional Officers).

Chapter IV

DECISION ADOPTED AT THE 26TH MEETING, ON 16 MAY 1997:
DOMINICAN REPUBLIC

1. At its 1st meeting, on 28 April 1997, the Committee was informed by a note verbale dated 23 April 1997 from the Permanent Representative of the Dominican Republic to the United Nations Office at Geneva that the Government of the Dominican Republic had accepted the Committee's offer to send two of its members to visit the country and pursue its dialogue with the Government in relation to the matters identified by the Committee at its fifth, seventh, tenth and fifteenth sessions. Subsequently the Secretary of State for Foreign Affairs of the Dominican Republic confirmed by a note verbale dated 25 April 1997 the invitation to the Committee to visit the country "to observe in situ the situation of economic, social and cultural rights".
2. The Committee expressed its strong appreciation to the Government of the Dominican Republic for its willingness to cooperate with it.
3. Following its discussions relating to the organization of the mission, the Committee agreed that:
 - (a) It should be represented by two of its members - Mr. Philippe Texier and Mr. Javier Wimer Zambrano - and assisted during the mission by one staff member of the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights;
 - (b) The mission should take place preferably in September and in any event before the Committee's seventeenth session (November 1997);
 - (c) The mission should focus primarily on matters relating to the implementation of the right to housing (article 11 (1) of the Covenant) and could also take account of the other issues identified by the Committee in its preliminary concluding observations, adopted at its fifteenth session, in December 1996, on the third periodic report of the Dominican Republic;
 - (d) The mission should undertake on-site visits, and arrange meetings with the relevant government officials as well as with individuals and groups from all appropriate sectors of civil society;
 - (e) Mr. Texier should be responsible for the preparation, on the basis of agreement with Mr. Wimer Zambrano, of a written report and its submission to the Committee at its seventeenth session, to be held from 17 November to 5 December 1997. That report should be considered in conjunction with the third periodic report of the Dominican Republic;
 - (f) The draft report should be considered by the Committee in private session and subsequently adopted for public release;
 - (g) Significant assistance would be required from the Secretariat in the preparation of the mission, particularly in obtaining and analysing relevant

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information. The Secretariat should seek inputs from all relevant sources and should specifically request any pertinent reports or other information from the United Nations Development Programme, the World Bank, the United Nations Centre for Human Settlements (Habitat), the International Labour Organization and other such agencies as well as from non-governmental organizations.

Notes

¹ A/CONF.165/14, chap. I, resolution 1, annex II, para. 233.

² Report of the World Food Summit, 13-17 November 1996, Part One (Rome, Food and Agriculture Organization of the United Nations, 1997), appendix, paras. 61 (c) and (e).
